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Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**

LISA LIBERI, et al.,

Plaintiffs,

v.

ORLY TAITZ, et al.,

Defendants.

) Case No.: 11-cv-00485-A6-AJW  
)

) **NOTICE OF MOTION AND MOTION TO**  
) **WITHDRAW AS ATTORNEY OF RECORD**  
) **FOR PLAINTIFF; MEMORANDUM OF**  
) **POINTS AND AUTHORITIES IN SUPPORT**  
) **THEREOF; DECLARATION OF GARY G.**  
) **KREEP**  
)  
)  
)  
)

TO DEFENDANTS AND THEIR ATTORNEYS OF RECORD:

NOTICE IS HEREBY GIVEN that Gary G. Krep will and hereby does move the Court for leave to withdraw attorney Gary G. Krep (hereinafter referred to as "KREP") as the designated local counsel in the above-captioned case. This motion is brought on the grounds that KREP was elected as Judge of the San Diego County Superior Court in June, 2012, and he is scheduled to be sworn in on January 7, 2013. As KREP will no longer be able to practice law, his withdrawal in this case is necessary.

NOTICE IS FURTHER GIVEN that this motion is based on this Notice of Motion and Motion, the Memorandum of Points and Authorities filed herewith, the Declaration of Gary G. Krep (hereinafter referred to as "KREP Decl."), the pleadings and papers on file herein, and upon such other matters as may be presented to the Court at the time of the hearing.

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1 NOTICE IS FURTHER GIVEN that KREEP has complied with the requirements of Local Rule  
2 83-2.9.2.1, as explained in KREEP Decl.

3 DATED: January 3, 2013

Respectfully submitted,

4 /s/ GARY G. KREEP

5 Gary G. Krep (SBN 066482)  
6 932 D St., Suite 2  
7 Ramona, CA 92065

8 Designated Local Counsel  
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**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO  
WITHDRAW AS ATTORNEY OF RECORD**

**I. KREEP Requests That The Court Grant Leave To KREEP To Withdraw As  
Counsel For Plaintiff Because Kreep Will Be Sworn In As Judge On January 7,  
2013, And Will No Longer Be Authorized To Practice Law.**

The Court is requested to grant leave to KREEP to withdraw as local designated counsel in the above-captioned action. This request is timely, and it will not adversely affect Plaintiffs. The Request is made because KREEP was elected as Judge of the San Diego County Superior Court, and he will be sworn in on January 7, 2013. As KREEP will not be authorized to practice law once he is sworn in, his withdrawal from this case as local designated counsel is necessary.

The Court's "decision to grant or deny counsel's motion to withdraw is committed to the discretion of the trial court." *Beard v. Shuttermart of Cal.*, 2008 WL 410694, \*2 (S.D. Cal. Feb. 13, 2008). In ruling on a motion to withdraw as counsel, the following factors are considered: "(1) the reasons why withdrawal is sought; (2) the prejudice withdrawal may cause to other litigants; (3) the harm withdrawal might cause to the administration of justice; and (4) the degree to which withdrawal will delay the resolution of the case." *Id.* (citations omitted). Here, KREEP can demonstrate good cause for withdrawal, in that KREEP's withdrawal will not prejudice any of the parties, or harm the administration of justice.

**II. Good Cause Exists For Kreep's Withdrawal As Counsel Of Record For Plaintiff**

Judges in the California State Courts are bound by the California Code of Judicial Ethics. (Preamble to the California Code of Judicial Ethics). Canon 4G of the Code states that "[a] judge shall not practice law."

Based on the enumerated section of the California Code of Judicial Ethics, as set forth above, KREEP submits that good cause exists for his withdrawal from this case, and that his withdrawal is necessary.

**III. Compliance With The Notice Provisions**

1 KREEP has complied with Central District of California Local Rule 83.2.9.2.1, which requires  
 2 that “[an] application for leave to withdraw must be made upon written notice given reasonably in  
 3 advance to the client and to all other parties who have appeared in the action.” *Id.* A copy of KREEP’s  
 4 motion has been served on counsel for Defendants and on Plaintiffs. *See* KREEP Decl.

#### 5 **IV. KREEP’s Withdrawal Will Not Prejudice Plaintiff**

6 Generally, “[a]n attorney may not withdraw until he or she ‘has taken reasonable steps to avoid  
 7 reasonably foreseeable prejudice to the rights of the client...’” *Pacific Rollforming, LLC v. Trakloc*  
 8 *Intern.*, 2008 WL 4682239, \*1 (S.D. Cal. Oct. 21, 2008) (citing Cal. R. Prof. Conduct 3-700(A)(2)). In  
 9 this case, Plaintiffs have been given ample notice of KREEP’s necessity to withdraw as local designated  
 10 counsel. Further, Attorney Philip Berg is actively retaining another attorney to serve as designated local  
 11 counsel for purposes of his Pro Hac Vice status in this case. As such, Plaintiff will not suffer prejudice  
 12 due to KREEP’s withdrawal as local designated counsel.

#### 13 **CONCLUSION**

14 For the foregoing reasons, KREEP respectfully requests that this Court enter an order granting the  
 15 withdrawal of KREEP as local designated counsel in this matter.

16 DATED: January 3, 2013

Respectfully submitted,

17 /s/ GARY G. KREEP

Gary G. Kreep (SBN 066482)  
 18 932 D St., Suite 2  
 19 Ramona, CA 92065

20 Designated Local Counsel

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Federal Rule of Civil Procedure, Rule 5, on January 4, 2013.

A copy of this document was served via U.S. Mail to all Plaintiffs on January 4, 2013.

/s/ GARY G. KREEP

Gary G. Krep